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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/895,432 | 06/29/2001 | Puncet Kukkal | 42390P11150 | 8961 |

7590 02/08/2007
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
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Los Angeles, CA 90025-1026

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| EXAMINER |
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BILGRAMI, ASGHAR H

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| ART UNIT | PAPER NUMBER |
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2143

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 02/08/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/895,432

Applicant(s)

KUKKAL, PUNEET

Examiner

Asghar Bilgrami

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 9, 12, 13, 20, 22, 24, 25 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 9, 12, 13, 20, 22, 24, 25 and 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 20 & 24 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not disclose the limitation that teaches matching the amount of media content and the quality being delivered from the new active edge site after the disturbance was detected from the previous edge site.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 9, 12, 13, 20, 22, 24, 25 & 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Achour et al (U.S. 6,363,260) and (Jungck et al (U.S. Pub No. 2002/0009079).

6. As per claims 1, 20, 24, 31 & 34 Achour disclosed a method comprising: generating a preferred list of edge sites from a plurality of edge sites (col.7, lines 55-62) upon receiving a media content request from a client (col.6, lines 30-42); providing the preferred list to the client (col.8, lines 13-24). However Achour did not explicitly disclose selecting a first edge site from the preferred list as an active site; requesting the media content from the first edge site; receiving the media content at the client, the media content being delivered from the first edge site; monitoring the media content being delivered (paragraph.82) from the first edge site to the client for one or more of quality of the media content being delivered, and an amount of the media content already

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delivered (Page.3, paragraphs.35); determining whether a disturbance has occurred, the disturbance including pausing of the media content from being delivered due to one or more of network congestion, and loss of network connection (page.7, paragraph.63, page.15, paragraph 111 & page.25, paragraph. 184) ; and upon detecting the disturbance, selecting a second edge site from the preferred list as a new active edge site to continue to deliver the media content to the client (paragraph.44), if the second edge site satisfies a plurality of factors, the plurality of factors including the new active edge site being capable of delivering an interrupted stream of the media such that the quality and the amount of the media content are matched (Page.11, paragraph.84).

It would have been obvious to one in the ordinary skill in the art at the time the invention was made to have incorporated traffic monitoring capability and switching over to an alternate traffic source site that matches the capabilities of the previous source site as taught by Jungck in a system offering plurality of traffic source sites to a requesting client as taught by Achour to improve the quality of service available to the client and intern making the network more versatile, resilient to failures and seamless delivery of content to the user.

7. As per claims 4, 12, 32 & 35 Achour-Jungck disclosed the method of claim 1, further comprising selecting a third edge site from the preferred list as the active site, if the second edge site fails to satisfy the plurality of factors (Achour, col.7, lines 55-67 and col.8, lines 1-12 & 13-24).

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8. As per claims 13, 25, 33 & 36 Achour-Jungck disclosed the method of claim 12, wherein the plurality of factors further compromise one or more of availability of the media content being delivered by the new active edge site, geographical proximity of the new active edge site, and network availability (Jungck, page 9. paragraph.75 and page.18, paragraph.125).

9. As per claims 22 Achour-Jungck disclosed the system of claim 20, wherein the server is further to generate a table indicating the media content of edge sites, and providing the table to the client via the preferred list of edge sites (Achour, col.7, lines 55-67 and col.8, lines 1-12 & 13-24).

Response to Arguments

10. Applicant's arguments filed 05/09/2005 have been fully considered but they are not persuasive.

11. Applicant argued that neither Achour nor Jungck fails to teach the newly amended claims.

12. As to applicant's arguments please read examiner's rejections towards the newly amended claims above.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3924. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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